REMARKS

No claims have been added or deleted in this response. Claims 11, 12, and 14 have been amended in response to the Office's suggestion to overcome the rejection under 35 USC 101. All claims are rejected as being unpatentable under 35 USC 103 in view of the combination of Lencki and Kaehler. Certain claims were rejected under 35 USC 101. The undersigned respectfully requests reconsideration of this rejection in view of the arguments and amendments presented herein.

Rejection of Claims under 35 USC 101

Independent claim 11, as well as claims 12 and 14, have been amended as suggested by the Examiner to particularly reference operation of the steps on a machine. Accordingly, the undersigned submits that the claims are now patent-eligible and respectfully request withdrawal of this rejection.

Rejection of Claims under 35 USC 103 in view of Lencki and Kaehler

All arguments from the previous response are incorporated herein. The undersigned notes the Office's statement in the Advisory Action: "The request for reconsideration has been considered but does NOT place the application in condition for allowance because: the Applicant's arguments are not persuasive. The Applicant argues features that are not claimed; no functionality of the software is claimed, nor how it performs." Each claim includes functional limitations directed to creating, linking, establishing, determining and defining. The undersigned fails to see how "no functionality of the software is claimed." Further, the Office's statement suggesting that how the software performs needs to be claimed is also confusing. The claims articulate various modules and functionality. The Office must point to a reference or properly combined references that disclose all modules and functionality as claimed in order to sustain a proper rejection. There are no additional requirements for proper claiming requiring language as to how the software performs.

The undersigned requests that any forthcoming rejection articulate more precisely the Office's position and specifically address the Applicant's arguments herein and from the previous response to Final rejection.

Initially, the undersigned repeats the argument from the previous response regarding the ordering of the components described in Lencki and applied by the Office. As shown in the rejection itself set forth below, the Office's rejection suggests that a module that isn't even referenced until paragraph [0281] in Lencki is integrated with a second module described nearly 100 paragraphs earlier ([0093], [0094]) in order to perform actions that are described <u>BEFORE</u> the first module is ever described, i.e., at [0271], [0273], [0184], [0084], [0081], [0193], [0206]. The required integration is simply not described in Lencki.

- a claim processing system (paragraph [0111]);
- a health plan management software module (paragraph [0281]) where Lencki discloses customer service software which can be modified to encompass a health care plan; and
- a defined contribution management software module integrated with the health plan management software module (paragraphs [0093] and [0094]), both the health plan management and defined contribution software modules operable by the claim processing system to:
  - create a defined contribution application for the health plan to allow for the entry of information for the defined contribution plan (paragraphs [0271] and [0273]);
  - link defined contribution plan information to the health plan (paragraph [0184]); and
  - establish allocation rules and amounts for the defined contribution plan (paragraph [0084]);
  - Allocation rules and amounts for the defined contribution plan which comprises for the FSA, defining parameters including a claim submission method considered during FSA claim processing (paragraphs [0081], [0193], and [0206] where Lencki discloses an invention in which an employee contributes to an account where pre and post tax dollars can be contributed, which is equated to a flexible spending account.

Second, even if the description was such that the "software" referenced in paragraph [0281] could be integrated with the generic "system" described at [0093], [0094], the "software" in [0281] clearly cannot be stretched into describing a health plan management software module with the functionality required by the claims. The entirety of paragraph [0281] is set forth below:

Customer Service and Customer Care Center

[0281]   An integrated software Customer Relationship Management (CRM) solution may be employed to support

> the traditional customer service function. The software may be fully integrated with the web site, the claims processing system, and the operations of other business partners to deliver end-to-end customer relationship management. A customer service application, e.g. from Clarify, may be modified to fit the healthcare model, as well as the business processes described herein.

This paragraph does nothing more than suggest that known customer service applications may be employed to support "traditional customer service function." A health plan management software module is not the same as a customer service application. One skilled in the art would recognize that just as has been suggested by Lencki, customer service functionality would be an add-on to other functionality/systems, e.g., such as the claims processing system. Accordingly, at most, the application referenced in [0281] might be part of a health plan management software module, but certainly cannot be equated to a health plan management software module. This paragraph quite simply does not meet the claimed limitation requiring a health plan management software module or the integration thereof with a defined contribution management software module.

Further still, the undersigned has reviewed paragraphs [0093] and [0094] in detail and again fails to see where these paragraphs recite the required "contribution management software module." These paragraphs are set forth below and while they passively reference a defined contribution strategy, there is no description herein of a contribution management software module, integration of a contribution management software module with a health plan management software module, or any of the claimed functionality.

[0093]   In response to the difficulties ascribed to the managed care industry, the AMA has endorsed a defined contribution strategy as well as any program that will relieve physicians from the constraints of managed care. A system consistent with the invention has a direct impact on the provider by eliminating the managed-care administrative burdens such as referrals, pre-certifications and limited provider choice. The system expects more and better interactions with the patient on the part of all providers and delivery of service that meets the physical and emotional needs of the customer. The physician/provider will also benefit from our nationally recognized disease management protocols available on-line as well as access to population and patient specific health-risk/health-status information provided through the system data warehouse.

[0094]   Additional product attributes may include the following: The module/option design ensures flexibility to modify the product to meet employer and employee demands and purchasing characteristics. The data captured and the information generated will allow both employer and providers to review the overall utilization patterns and to meet emerging demands rather than reacting to the volume/tone of consumer complaints. All parties may move with the maturing process of disease management to the next level of impact by embedding disease management into the core business functions of company providing the system (hereinafter "the company"), i.e. claims, customer service. Service kiosks may be provided in the workplaces. Outcome analysis may enable the company providing the system to see trends and meet the customer at the point of their new preferences.

The secondary reference, Kaehler, does not remedy the deficiencies of Lencki. At most, Kaehler describes a process which allows for employees (or members) to designate at what point and in what order funds from various accounts are to be used to pay for services. These various accounts could include HRA and/or FSA accounts, as well as personal spending accounts (e.g., checking or the like). Kaehler is not describing an application for creating or formatting the HRA and/or FSA accounts themselves, but instead assumes these accounts have already been established. Accordingly, Kaehler does not and cannot:

- determin[e] whether HRA allocated amounts are to be carried over, and

- defin[e] parameters including a claim submission method considered during FSA claim processing.

Again, Kaehler describes establishment of hierarchical rules for using funds from pre-established types of accounts to settles payments. This does not call for or require establishment of a defined contribution management software module or integration or linking thereof with a health plan.

For the reasons presented herein, the undersigned submits that numerous claimed limitations are absent from the combination of Lencki and Kaehler and as such the pending claims are patentable over the cited art. The undersigned respectfully requests reconsideration of the Office's rejections and an indication of claim allowability.

CONCLUSION

The undersigned representative respectfully submits that this application is in condition for allowance, and such disposition is earnestly solicited. The undersigned requests an in-person interview to discuss the positions articulated herein prior to the Office's decision on the merits and will follow-up post-filing to schedule. In addition, if any additional fees are required in connection with the filing of this response, the Commissioner is hereby authorized to charge the same to Deposit Account 50-4402.

Respectfully submitted,

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